

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

New Hampton Post Office
New Hampton, Missouri

Docket No. A2012-13

ORDER AFFIRMING DETERMINATION

(Issued January 27, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 17, 2011, Darrol and Chris Lofgren, and Glenda Laytham (Joint Petitioners) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the New Hampton, Missouri post office (New Hampton post office).² The Final Determination to close the New Hampton post office is affirmed.

II. PROCEDURAL HISTORY

On October 20, 2011, the Commission established Docket No. A2012-13 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On November 17, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

Petitioners filed participant statements supporting their petitions.⁶

² Petition for Review received from Darrol and Chris Lofgren and Glenda Laytham regarding the New Hampton, MO post office 64471, October 17, 2011 (Joint Petition). A second Petition for Review was received from Serena Naylor on October 25, 2011 (Naylor Petition).

³ Order No. 914, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 20, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, Corrected Administrative Record–[Errata], November 17, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the New Hampton, MO Post Office and Establish Service by Rural Route Service (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, December 12, 2011 (Postal Service Comments).

⁶ Joint Participants filed a participant statement on November 7, 2011 (Joint Participant Statement). Participant Statement received from Serena Naylor on November 15, 2011 (Naylor Participant Statement).

III. BACKGROUND

The New Hampton post office provides retail postal services and service to 39 post office box customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The New Hampton post office, an EAS-55 level facility, has retail access hours of 8:30 a.m. to 11:30 a.m. and 12:30 p.m. to 4:00 p.m. Monday through Friday, and 8:30 a.m. to 10:30 a.m. on Saturday. *Id.* at 2. Lobby access hours are 8:30 a.m. to 4:00 p.m. Monday through Friday, and 8:30 a.m. to 10:30 a.m. on Saturday. *Id.*

The postmaster position became vacant on March 31, 2009 when the New Hampton postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the office. *Id.* Retail transactions average 13 transactions daily (14 minutes of retail workload). *Id.* Office receipts for the last 3 years were \$14,498 in FY 2008; \$15,036 in FY 2009; and \$14,688 in FY 2010. *Id.* There were two permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$49,870 annually. *Id.* at 11.

After the closure, retail services will be provided by the Albany post office located approximately 8 miles away.⁷ Delivery service will be provided by rural carrier through the Albany post office. *Id.* at 2. The Albany post office is an EAS-18 level office, with retail hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday. *Id.* Sixty-one (61) post office boxes are available. *Id.* The Postal Service will continue to use the New Hampton name and ZIP Code. *Id.* at 6, Concern No. 30.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the New Hampton post office. Joint Petitioners are concerned about the effect of the closure on the officer-in-charge

⁷ *Id.* at 2. MapQuest estimates the driving distance between the New Hampton and Albany post offices to be approximately 8.1 miles (11 minutes driving time). MapQuest estimates the driving distance between the New Hampton and Martinsville post offices to be approximately 7.3 miles (11 minutes driving time).

(OIC) and the mail carrier. Joint Petition at 1. He is concerned about the need to travel 7-10 miles to another post office. *Id.* He notes that even though the New Hampton post office might not generate sufficient revenue, it did serve the rural community. *Id.* Finally, he argues that the closure of rural post offices would not save the Postal Service very much money, and he suggests that the Postal Service cut costs at the management level. *Id.* at 2. He further argues that the projected savings are inflated, since the Postal Service is still liable for the building lease through 2013. Joint Participant Statement at 5.

Petitioner Naylor, a small business owner, also argues that the economic savings projected by the Postal Service are inflated, since the New Hampton post office is served by an OIC, who does not receive the salary and benefits of a postmaster. Naylor Petition at 1. She states that there are no alternative post offices within a 7 mile radius, despite what the Postal Service asserts. *Id.* She argues that post office closure unfairly targets rural areas, especially areas like New Hampton which have a large population of elderly and poor residents. *Id.* She states that the New Hampton business community has been adversely affected by recent changes in the rural carrier route, which resulted in delay of mail. She adds that the rural mail carrier currently is allotted 23 seconds per delivery and that it might not be possible for the rural mail carrier to take on the retail duties he would have with additional customers on his route. Naylor Participant Statement at 1

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the New Hampton post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the New Hampton community; (3) the economic savings expected to result from discontinuing the New Hampton post office; and (4) the impact on employees. *Id.* The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the New Hampton post office should be affirmed. *Id.* at 14.

The Postal Service explains that its decision to close the New Hampton post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the New Hampton community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners concerning the effect on postal services, the impact on the New Hampton community, economic savings, and effect on postal employees. *Id.* at 13.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On May 19, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the New Hampton post office. Final Determination at 2. A total of 235 questionnaires were distributed and 73 were returned. *Id.* On June 8, 2011, the Postal Service held a community meeting at the New Hampton Fire House to address customer concerns. *Id.* Thirty-four (34) customers attended. *Id.*

The Postal Service posted the proposal to close the New Hampton post office with an invitation for comments at the New Hampton, Martinsville, and Albany post offices from June 22, 2011 through August 23, 2011. *Id.* at 2. The Final Determination was posted at the same three post offices from September 28, 2011 through October 30, 2011. *Id.* at 1.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on

postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. New Hampton, Missouri is an unincorporated community located in Harrison County, Missouri. Final Determination at 9. The community is administered politically by the Harrison County Courthouse. Police protection is provided by the Harrison County Sheriff. Fire protection is provided by the New Hampton Fire Department. The community is comprised of a mixture of retirees, self-employed, and farmers, those who work in local businesses, and those who commute to nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See generally Administrative Record, Item No. 22. (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the New Hampton community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the New Hampton post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 9-10.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the New Hampton postmaster retired on March 31, 2009, and that an OIC has operated the New Hampton post office since then. *Id.* at 2.

Petitioners are concerned that the OIC may lose her job and that the rural carrier's workload may increase substantially if the New Hampton post office is closed. Joint Petition at 1, Naylor Participant Statement at 2. The Post Service asserts that,

after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. Final Determination at 12. The Postal Service notes that the rural carrier's compensation is based, in part, on time and volume, and so that carrier would be compensated for the additional deliveries to the New Hampton community. Postal Service Comments at 13.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the New Hampton post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to New Hampton customers. *Id.* at 7-8. It asserts that customers of the closed New Hampton post office may obtain retail services at the Albany post office located 8 miles away, or the Martinsville post office, located 7 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Albany post office. *Id.* The 39 post office box customers may obtain Post Office Box Service at the Albany post office, which has 61 boxes available, or the Martinsville post office, which has 42 post office boxes available for rent. *Id.*

Petitioner asserts that neither the Albany nor the Martinsville post office is within a 7 mile radius, and in any event, the Martinsville post office is targeted for closure. Naylor Petition at 1. For customers choosing not to travel to the Albany or Martinsville post offices, the Postal Service explains that retail services will be available from the carrier. *Id.* at 8, Concern 42. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* Furthermore, both alternative locations are less than 7 miles from many New Hampton residences. Postal Service Comments at 3, n.9. The Postal Service states it is not certain that the Martinsville post office will be closed, and that it will not be serving as the administrative office for New Hampton residences. *Id.* at 3, n.8.

Petitioners question the rural carrier's workload and the time of delivery on the rural route. Joint Participant Statement at 6, Naylor Participant Statement at 2. The Postal Service responds that it carefully monitors mail volume to determine and correct any delays in mail delivery, and that rural carriers are expected to serve the route expeditiously and arrive at boxes about the same time each day. Postal Service Comments at 7.

Petitioner Naylor is concerned about the impact of the closure on the elderly and poor residents in the New Hampton community. Naylor Petition at 1, Naylor Participant Statement at 1. The Postal Service explained that these concerns were considered and that businesses as well would continue to receive regular and effective postal services. Postal Service Comments at 6.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$49,870. Final Determination at 11. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$7,000), minus the cost of replacement service (\$1,409). *Id.* at 11.

Petitioner Naylor raises the issue that the New Hampton post office is staffed by an OIC, yet the savings are calculated on a postmaster's salary and benefits. Naylor Petition at 1. The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The New Hampton post office postmaster retired on March 31, 2009. Final Determination at 12. The office has since been staffed by a non-career OIC who, upon discontinuance of the office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 13; Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 10. Furthermore, notwithstanding that the New Hampton post office has been staffed by an OIC for nearly 3 years, even assuming the use of the presumably lower

OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Joint Petitioners raise the issue that only a small amount of money will be saved by closing the New Hampton post office and recommends cutting management costs instead. Joint Petition at 2. The Postal Service responds that though the savings from any given initiative may seem small, such savings can make a difference when added together. Postal Service Comments at 11. The Postal Service adds that it has taken steps to cut management positions and salary through reorganization, but the focus of this administrative action is the provision of effective and efficient postal service to the New Hampton community. *Id.*

Petitioner Naylor questions whether rural service would save money. Naylor Participant Statement at 2. The Postal Service has determined that rural carrier service would cost the Postal Service substantially less than maintaining the New Hampton post office. *Id.* at 9-10. Joint Petitioners note that the Postal Service is liable for the cost of the lease through 2013. Joint Participant Statement at 5. The Postal Service's economic analysis included consideration of lease costs. Postal Service Comments at 10.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Joint Petitioners allege that the Postal Service is closing the New Hampton post office solely for economic reasons. Joint Petition at 1-2.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the New Hampton post office (revenues declining and averaging only 13 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 12.

The Postal Service did not violate the prohibition in section 101(b) on closing the New Hampton post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the New Hampton, Missouri post office is affirmed.

It is ordered:

The Postal Service's determination to close the New Hampton, Missouri post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the New Hampton post office has been operated by an officer-in-charge (OIC) since the former postmaster retired on March 31, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation has already been included in those billions. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of New Hampton, Missouri and their concerns regarding the loss of

a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The current lease does not terminate until April 30, 2013, and does not have a 30-day termination clause. Administrative Record, Item 15 at 1. The Postal Service should note that any savings from the lease will not be realized for at least 16 months.

In addition, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since March 2009, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

The Administrative Record indicates that along with the proposed Administrative post office (approximately 8 miles away), retail services may also be obtained from another post office in the opposite direction approximately 7 miles away from the New Hampton post office. Final Determination at 2. This alternate post office, Martinsville post office, is being considered for discontinuance under the Retail Access Optimization Initiative (RAOI). The Postal Service should include within its discontinuance process a mechanism to ensure that due consideration is given to the impact on the community of the receiving administrative post office immediately being reviewed for discontinuance.

I find that the Postal Service's decision to discontinue operations at the New Hampton post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley